meetings were held over the course of 14 days at a cost to the U.S. beef industry of an estimated $56 million and the ban now causing about $348 million in lost exports;

On the 4-month anniversary of the Japanese ban, Japan announced that it had reached a basic understanding with the U.S. on the resumption of beef imports, but had not reached any formal agreement to resume imports. The damage to the beef industry topped $460 million when Japan finally reached this basic understanding;

Lately, we have been told that all that is left for Japan to resume importing U.S. beef is for its own inspectors to audit each of the 35 U.S. facilities permitted to export to Japan—and previously re-audited by USDA officials in April. This round of audits just began and will continue through July 21—or just past the 6-month anniversary of the ban when the cost to the beef industry will reach $700 million;

In the time that it takes Japan to re-audit the U.S. facilities, the loss in exports to the beef industry will be $116 million;

And Japan has recently said that they will not resume imports until after they submit a report on their audits—so each day that Japan takes to complete this report, the beef industry loses about $4 million.

Those numbers are only part of the real cost to an important U.S. and Nebraska industry of this slow, drawn-out process; most of the costs we are unable to estimate at this point in time. But the above timeline should serve as a real reminder of what unfair trade practices cost American industries.

I was given another real reminder of the damage caused by this ban at the end of last month. On May 31, I flew around Nebraska to meet with producers, packers and other members of the Nebraska beef industry. They all told me that the Japanese ban has been hard on them and they encouraged me to continue pushing Japan.

I talked to folks at a beef processing plant in Grand Island, where foreign beef sales once made up 16 percent of the company's sales—half of which once went to Japan. They have been hit hard by Japan's ban.

I talked to farmers and ranchers whose livelihoods have been threatened by this ban. Some of them were set to ship beef to Japan when it reopened in December. These producers couldn't emphasize enough the problems this ban has caused them and how it has affected their planning and businesses.

These Nebraskans were clear: our trade arrangements must be fair. They must be based on sound science and not on politics or emotion.

And they all supported my bill. Their message to me was clear: if Japan won't take our beef, there's no reason why we should continue to accept their beef. I couldn't agree more.

Recently the National Cattlemen's Beef Association unanimously voted to support my bill. They too emphasized that fair trade was the driving force behind their support for my bill. The cattlemen's message to Japan was simple: Enough is enough.

The Nebraska cattlemen have also recently stated that they welcomed my bill. They support this effort because they are frustrated that we have not obtained fair trade with Japan. Japan imported $350 million of Nebraska beef products in 2003 and that market has now been unfairly closed for far too long.

Japan's ban on U.S. beef has unfairly damaged the beef industries in Nebraska and the United States. This ban is not based on scientific evidence. It is not the result of real health concerns. It is based on politics and emotion. It is not a fair manner to conduct trade.

That is why I am doing all that I can to push this process along and that is why I will continue to push until trade is actually resumed and U.S. beef is once again on the shelves in Japan and available to Japanese consumers.

That is why I am speaking on the Senate floor this morning while the Japanese Prime Minister is at the White House—as a reminder that our trade relationship with Japan must be conducted fairly.

There has been progress made and I do not wish to discount that. It has come too slowly and at a high price to the beef industry. But progress has been and continues be made.

I do want to mention that I applaud Japan's agreement to refrain from closing down all trade over any future instances of noncompliance. The shared understanding reached last week between the U.S. and Japan includes a provision whereby Japan, upon finding a noncompliant shipment, will only take actions that are commensurate with the nature of the violation.

I believe that. fair trade between our countries requires that action only be taken against noncompliant shipments or, at most, against the facilities responsible for the noncompliant shipment. I do not believe that it is fair to hold the entire industry at fault. I welcome Japan's agreement to conduct trade in this fair manner.

I will wrap up by again asking my colleagues to support my bill and to help send a message to Japan that trade between our nations must be fair.

It is my hope that together our efforts will continue to speed along the process for resuming the beef trade with Japan and will help ensure that when trade resumes between our nations it is conducted fairly.

I close today by reiterating what I keep telling Ambassador Kato: That U.S. beef is the best and safest in the world and that Japan's ban on it should end immediately. I am cautiously optimistic that Japanese consumers will again be able to enjoy U.S. beef before the end of July, but this ban has gone on too long and I am worried about the lingering damage it has caused—to the U.S. beef industry in particular.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

The Senator will be advised the minority still has 4 minutes remaining on their side.

Mr. MCCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Madam President, I ask unanimous consent the calling of the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. I ask that the remaining time on the minority side be yielded back.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST—527 REFORM ACT OF 2006

Mr. MCCAIN. Madam President, at the conclusion of my remarks, I will ask unanimous consent to move to consideration of S. 2511, legislation that requires that the law be enforced. That is, that the so-called 527s be made illegal and banned as they properly should be. I will be making that unanimous consent request after the conclusion of my remarks. I have been told the Democrat side will be objecting to moving to the legislation. I regret that very much.

The legislation is pretty straightforward. It requires any organization—including the so-called 527s—that falls under campaign finance contribution limits, as is any objective observer's reading of the law, to follow the law.

I regret we will be unable to move this important piece of legislation. It is simple and straightforward and designed to overcome the Federal Election Commissions's inexcusable failure to interpret properly the original Federal Election Campaign Act of 1974.

I point out to my colleagues that these 527s are a violation of the original Federal Election Campaign Act, now BCRA, known by some as McCain-Feingold. The Federal Election Commission, as in many cases, inexcusably fails to properly interpret the original Federal Election Campaign Act which would halt the illegal practice that has sprung up whereby 527 groups are now spending soft money on ads and other activities to influence Federal elections.

I understand fully the politics surrounding this issue, which unfortunately is going to cause some of my colleagues to oppose any reform. But the time has come to address this issue. We should put political prerogatives aside and do what is best for the American electorate. We need to have this debate. I am committed to working with my colleagues to resolve our differences. Let's bring this bill up, have a debate, and consider amendments.

As my colleagues know, a number of 527 groups raised and spent a substantial amount of soft money in a blatant effort to influence the outcome of the 2004 election. These activities are illegal under existing laws, and yet, the FEC has failed to do its job and has refused to do anything to stop these illegal activities. Therefore, it is now up to Congress to pursue all possible steps to uphold FECA and overturn the FEC's misinterpretation of the campaign finance laws, which is improperly allowing 527 groups, whose purpose is to influence Federal elections, to spend soft money on these efforts.

In McConnell v. FEC, the Supreme Court noted wisely that money, like water, will look for ways to leak back into the system. With the enactment of the Bipartisan Campaign Reform Act of 2002, BCRA, the national parties were taken out of the soft money business. It did not take long before efforts were underway by some to bring soft money back into Federal elections through the vehicle of groups that operate as ''political organizations'' under section 527 of the IRS Code, or so-called ''527s.''

The soft money game is the same with these groups; they are raising multi-million-dollar donations from wealthy individuals, as well as large contributions from corporate and union contributions, and spending that soft money on broadcast communications that promote or attack Federal candidates, and voter mobilization efforts intended to influence Federal elections. We saw, firsthand, how a number of 527 groups raised and spent huge amounts of soft money in order to influence the outcome of the last Presidential election. These activities were prohibited under longstanding campaign finance law but, again, the FEC failed to properly enforce the law. As a result, federally oriented 527s spent over $400 million on the 2004 elections.

It turns out that almost half of the financing for 527 groups in the 2004 elections came from a relatively small number of very wealthy individuals who made huge soft money contributions. According to campaign finance scholar Tony Corrado, 25 wealthy individuals accounted for $126 million raised by 527 groups active in the 2004 Federal elections. This included 10 donors who gave at least $4 million each to 527s involved in the 2004 elections and two donors who each contributed over $20 million. If that doesn't make a mockery of both campaign finance laws, nothing does. Two donors, $20 million each. Over $20 million each poured into the 2004 Presidential campaign.

Opponents of campaign finance reform like to point out that the activities of these 527s serve as proof that BCRA failed in its stated purpose to eliminate the corrupting influence of soft money in our political campaigns. Let me be perfectly clear: The 527 issue has nothing to do with BCRA. It has everything to do with a 1974 law and the failure of the Federal Election Commission to do its job and properly regulate the activities of these groups. The new campaign finance law, BCRA, has successfully accomplished its goals.

Last year, David Broder wrote in the Washington Post:

> As one who has been skeptical of the claimed virtues of the McCain-Feingold campaign finance law, I am happy to concede that it has, in fact, passed its first test in the 2004 campaign with flying colors.

It is important to point out that this was accomplished despite all of the predictions at the time about how the national political parties would be financially undermined without soft money. That was the major source of opposition. This would destroy the national political parties. The national political parties raised more hard money in the 2004 election cycle than they raised in hard and soft money combined during the Presidential election cycle in 2000. In fact, Republican and Democratic national parties raised a record $1.2 billion for the 2004 elections. What is really good about that is the majority of that came from small donors, not large, huge, soft money contributions. They increased that donor base. Again, the Democratic National Committee has more than 2.5 million new donors; the Republican National Committee, more than 1 million new donors; Republican senatorial and congressional campaign committees, 700,000 new donors; Democratic congressional campaign committee, 230,000 new donors. That was the intent of the law. That is what happened.

According to Tony Corrado, the DNC has more than 2.5 million new donors, as I pointed out; the RNC more than a million new donors.

What is the problem? The problem is, the Federal Election Commission, even though directed by the Supreme Court, will still not enforce existing law.

The fact that the overwhelming majority of Federal 527s were created after the enactment of BCRA is no coincidence. Of the 68 Democrat-leaning 527 committees involved in the 2004 cycle, 54 of them were organized after BCRA. Of the 26 Republican-leaning 527 groups in the 2004, 13 were organized after the enactment of legislation which banned the use of soft money in Federal elections.

These groups were set up with every intention of circumventing the law. They could not circumvent the law if the Federal Election Commission would enforce the law. That is why we have to go to court again and again.

For the record, in order to enforce, to write regulations to enforce the BCRA, 13 of the 15 original regulations were thrown out by a Federal court judge—a remarkable performance on their part, remarkable.

S. 2511, the bill I would like to see brought before this Senate, voted on and passed, requires that 527s register as political committees and comply with Federal campaign finance laws, including Federal limits on the contributions they receive unless the money they raise is spent exclusively in connection with non-Federal candidate elections, State or local ballot initiatives, or the nomination or confirmation of individuals to nonelected offices. And it upholds the hard-fought victory of BCRA.

The legislation also sets new rules for Federal political committees that spend funds on voter mobilization efforts affecting both Federal and local races and, therefore, use both the Federal and non-Federal account under FEC regulations. The new rules would prevent unlimited soft money from being channeled into Federal elections through abuse of the Commission's allocation rules.

Under the legislation, at least half of the funds spent on voter mobilization activities by Federal political committees would have to be hard money from their Federal account. More importantly, the funds raised for their non-Federal account would come only from individuals and would be limited to no more than $25,000 per year per donor. Corporations and labor unions could not contribute to these non-Federal accounts.

To put it in simple terms, a George Soros could give $25,000 per year to a single political action committee as opposed to the $22 million he spent to finance these activities.

Let me be perfectly clear on one point. This proposal would not shut down 527s. It would simply require them to abide by the same Federal campaign finance rules that every other Federal political committee must abide by in spending money to influence Federal elections, nor is this bill intended to affect 501(c)(3) or (4) tax-exempt organizations.

Under the Internal Revenue Code, a 527 group is a ''political organization,'' which is a group whose primary purpose is to influence candidate elections or the appointment of individuals to public office. In other words, the 527 groups by definition are in the business of influencing campaigns and have voluntarily sought the tax advantages conferred on such political groups. These groups cannot be allowed to shirk their responsibilities to comply with Federal campaign finance laws when they are spending money to influence Federal elections.

The use of soft money by 527 groups to pay for ads attacking and promoting the 2004 Presidential candidates was not legal. This is not a matter of the new campaign finance law, BCRA; it is a requirement of longstanding Federal campaign finance laws that go back to 1974. That law, as construed by the Supreme Court in Buckley v. Valeo, requires any group that has a ''major purpose'' to influence Federal elections, and spends $1,000 or more to do

so, to register with the Federal Election Commission as a ''political committee'' and be subject to the contribution limits, source prohibitions, and reporting requirements that apply to all political committees.

Section 527 groups need to play by the rules that candidates, political parties, and all other political committees are bound by—the rules that Congress has enacted to protect the integrity of our political process. They need to raise and spend money that complies with Federal contribution limits and source prohibitions to pay for ads that promote or attack Federal candidates or otherwise have the purpose to influence Federal elections. They need to spend Federal funds for voter mobilization activities that are conducted on a partisan basis and will influence Federal elections—just like every other political committee.

Some have raised questions about whether it is constitutional to limit contributions to political committees that operate supposedly independent of parties and candidates.

I ask unanimous consent to have printed in the RECORD, Madam President, a detailed analysis of these constitutional questions prepared by Professor Daniel Ortiz, the John Allan Love Professor of Law at the University of Virginia School of Law. The memo thoroughly explains the constitutional basis for the legislation we have introduced.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF VIRGINIA
SCHOOL OF LAW,
Charlotteville, VA, March 7, 2005.

Memorandum

Re: Constitutionality of Limits on Contributions from Individuals to 527 Organizations That Make Only Independent Expenditures

This memo addresses whether S. 271's limit on contributions from individuals to §527 organizations that make only independent expenditures (''527 IECs'') is constitutional. McConnell v. FEC, 540 U.S. 93 (2003), makes clear that it is. In that case, the Supreme Court not only explicitly made this point, id. at 152–53 n. 48, and upheld bans on soft money that were inconsistent with any other result, but also reaffirmed the first principles of Buckley v. Valeo, 424 U.S. 1 (1976)(per curiam), which compel it.

Any doubt that Congress can limit contributions to 527 IECs stems largely from a single source: dicta in the Supreme Court's fractured decision in California Medical Ass'n v. FEC, 453 U.S. 182 (1981) (CalMed). In CalMed, the Supreme Court upheld the Federal Election Campaign Act's (FECA's) $5,000 limit on individual contributions to multicandidate political action committees. At one point, however, the plurality appeared to avoid considering ''the hypothetical application'' of FECA to political committees that make only independent expenditures. Id. at 197 n. 17 (opinion of Marshall, J.). And in a separate opinion, Justice Blackmun, whose fifth vote was necessary for the decision, appeared to suggest that FECA's $5,000 limit could not apply to such committees. He wrote:

''[a] different result would follow if [the $5,000 limit] were applied to contributions to a political committee established for the purpose of making independent expenditures, rather than contributions to candidates. . . . [Political action committees like the California Medical Association are] essentially conduits for contributions to candidates, and as such they pose a perceived threat of actual or potential corruption. In contrast, contributions to a committee that makes only independent expenditures pose no such threat.''

Id. at 203 (Blackmun, J., concurring in part and concurring in judgment). Since independent expenditures could pose no threat of actual or potential corruption, Justice Blackmun thought contributions used for that purpose could not corrupt either. The corruptive potential of contributions, he suggested, depended solely on the ultimate use to which an organization would put them. Dissenting on jurisdictional grounds, none of the remaining justices reached the merits. Id. at 204–09 (Stewart, J., dissenting).

CalMed necessarily decided more, however, than the plurality and Justice Blackmun suggested. Justice Blackmun's own vote (as well as the plurality's) undercut his dictum. The political committee in CalMed argued not just that the $5,000 contribution limit was generally unconstitutional but that it was unconstitutional in a particular way. Even if Congress could limit contributions that the committee would ultimately use for candidate contributions, it argued, Congress could not limit those ultimately used for administrative expenses and possibly for independent expenditures. Brief of Appellants at 34–35, California Medical Ass'n v. FEC, 453 U.S. 182 (1981) (''Like other political committees, CALPAC may make independent expenditures as well as direct contributions to candidates. To the extent it makes independent expenditures CALPAC engages in first amendment activity that cannot be limited given the result in Buckley.'') Indeed, on the court below, several judges would have invalidated the $5,000 limit precisely because of its effect on political committees' independent expenditures. California Medical Ass'n v. FEC, 641 F.2d 619, 647 (1980) (Wallace, J., dissenting) (''A limitation on donations to committees restricts not only funds available for contributions by the committees to candidates, but also the funds available for independent expenditures through the committee framework. It is by repeatedly forgetting this incontestable fact that the majority erroneous likens the . . . donation restriction to the contribution limitations upheld in Buckley.'').

These other uses, however, did not trouble the Court in CalMed. It upheld the $5,000 limit without regard to how the political committee would ultimately use a contribution—a position flatly inconsistent with Justice Blackmun's stated misgivings. If Justice Blackmun's view—that a contribution's ultimate use determined whether Congress could limit it—had controlled, the Court would necessarily have struck down the $5,000 limit at least in part. That limit would clearly have been overbroad insofar as it applied to contributions to political committees that would not be used in ways that counted as contributions to candidates. Congress could have addressed any fear of corruption from candidate contributions in a much more limited and focused way—by limiting only those contributions that political committees would use to contribute directly to candidates. That the Court (with Justice Blackmun's vote) did not strike down the limit on this ground necessarily undercuts Blackmun's own stated position. Despite his misgivings, he himself actually voted to support a broad limit which covered contributions that could be used for purposes of making independent expenditures.

In McConnell, the Supreme Court made clear that this reading—that CalMed necessarily upheld limits on contributions to independent expenditure committees—is correct. In rejecting Justice Kennedy's ''crabbed view of corruption,'' 540 U.S. at 152, which held that only concern for traditional quid pro quo corruption could support campaign finance regulation, McConnell pointed to CalMed as precedent for recognizing ''more subtle but equally dispiriting forms of corruption,'' id. at 153. The Supreme Court made clear first that CalMed upheld limits on exactly those contributions that Justice Blackmun had questioned:

''[In CalMed), we upheld FECA's $5,000 limit on contributions to multicandidate political committees. It is no answer to say that such limits were justified as a means of preventing individuals from using parties and political committees as pass-throughs to circumvent FECA's $1,000 limit on individual contributions to candidates. Given FECA's definition of contribution, the $5,000 . . . limi[t] restricted not only the source and amount of funds available to parties and political committees to make candidate contributions, *but also the source and amount of funds available to engage in express advocacy and numerous other noncoordinated expenditures.*''

Id. at 152 n. 48 (emphasis added). As the last sentence states unmistakably, CalMed held that Congress could limit contributions to entities that would use them solely for independent expenditures. McConnell then made clear why: CalMed necessarily found that such contributions pose a danger of actual or apparent corruption. As the very next sentence in McConnell explains, CalMed could not have upheld FECA's broad limit on contributions to party and multicandidate committees without necessarily deciding this point. With respect to party committees, the type of committee at issue in this portion of McConnell itself, the next sentence argues:

''If indeed the First Amendment prohibited Congress from regulating contributions to fund [express advocacy and numerous other noncoordinated expenditures], the otherwise-easy-to-remedy exploitation of parties as pass-throughs (e.g., a strict limit on donations that could be used to fund candidate contributions) would have provided insufficient justification for such overbroad legislation.''

Id. at 152–53 n. 48. In other words, if contributions ultimately used to make independent expenditures had no corruptive potential, the overall limit on contributions to multicandidate committees would have been unsustainable. Congress could have justified the limit only insofar as it remedied so-called ''pass-through'' corruption and much more narrowly tailored remedies, like ''a strict limit on donations that could be used to fund candidate contributions,'' could have addressed that. Thus, the overall limit on contributions to multicandidate committees would have been unconstitutionally overbroad if Justice Blackmun's view had been correct. CalMed, then, despite its ambivalent dicta, stands for two propositions: (i) that contributions can corrupt independently of their ultimate use and (ii) that Congress can limit contributions to political committees that the recipients would use to make independent expenditures. Any other reading of CalMed supplants its holding with dicta that no one on the CalMed court itself followed.

McConnell's own treatment of FECA's soft money provisions reinforces both these CalMed holdings. If contributions that were eventually used as independent expenditures on federal elections posed no corruptive potential—if they were always and necessarily

sacrosanct—then the Court would have had to strike down many of the soft money provisions it upheld in McConnell, particularly §323(a), the ''core'' soft money provision. *Id.* at 142. This provision provides that ''national committee[s] of a political party . . . may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds or any other thing of value, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of th[e] Act.'' 2 U.S.C. §441i(a)(1)(Supp. 2003). It makes all funds that the national party committees solicit, receive, spend, or direct—regardless of how the committees intend to use them—subject to FECA's amount, source, and disclosure requirements. Contributions that would be spent in coordination with candidates, contributions that would be spent independently on candidates' behalf, and contributions that would be spent on advertisements that do not even mention the party or its candidates are all subject to FECA's requirements.

In themselves, however, these different party activities pose very different threats of corruption. Coordinated expenditures create a significant danger of corruption, *FEC v. Colorado Republican Federal Campaign Comm.*, 533 U.S. 431, 457–60 (2001)(*Colorado II*), independent expenditures create less danger, *id.* at 441; *Colorado Republican Federal Campaign Comm. v. FEC*, 518 U.S. 604, 615 (1996) (*Colorado I*) (opinion of Breyer, J.), and speech on pure issues that does not refer to any candidates still less. Yet, those different threats of corruption made no difference to the Court. No matter how a national party committee would put a soft money contribution to use, Congress could ban it. The contribution's ultimate use did not determine its corruptive potential. Rather, the corruptive potential stemmed from the party's ability to give donors access to and influence over its candidates. 540 U.S. at 147–50, 153–54 (influence), 150–54 (access). In upholding FECA's central soft money provision, then, McConnell necessarily found that even though independent party expenditures on behalf of candidates could not directly corrupt, *see Colorado I*, 518 U.S. 604 (1996), contributions to party political committees for this purpose could. The corruptive potential of the one was a sufficient but not necessary condition for that of the other.

The same analysis applies to McConnell's treatment of FECA's ban on the use of soft money contributions by state and local party committees for federal election activities. Section 323(b) restricts the use of nonfederal funds by state and local party committees to help finance ''Federal election activity.'' 2 U.S.C. §441i(b)(1) (Supp. 2003). As the Court noted in McConnell,

''[t]he term 'Federal election activity' encompasses four distinct categories of electioneering: (1) voter registration activity during the 120 days preceding a regularly scheduled Federal election; (2) voter Identification, get-out-the-vote (GOTV), and generic campaign activity that is 'conducted in connection with an election in which a candidate for Federal office appears on the ballot'; (3) any 'public communication' that 'refers to a clearly identified candidate for Federal office' and 'promotes,' 'supports,' 'attacks,' or 'opposes' a candidate for that office; and (4) the services provided by a state committee employee who dedicates more than 25% of his or her time to 'activities in connection with a Federal election.' §§431(20)(A)(i)–(iv).''

540 U.S. at 162. Significantly, none of these four categories necessarily involves contributions to candidates and categories 1, 2, and 3 necessarily do not unless there is coordination. Thus, if Congress could restrict the use of only those contributions to state and local party committees that the committees in turn contribute to candidates, §323(b), just like §323(a), would have necessarily been overbroad and unconstitutional. McConnell held, however, that Congress could restrict the use of all nonfederal contributions by state party committees ''for the purpose of influencing federal elections.'' Id. at 167. The reason was clear. Although these activities might not pose a threat of state and local parties themselves corrupting federal candidates, they would allow the contributors to corrupt through these committees. As the Court explained it,

''Congress . . . made a prediction. Having been taught the hard lesson of circumvention by the entire history of campaign finance regulation, Congress knew that soft-money donors would react to §323(a)[, the national party committee ban,] by scrambling to find another way to purchase influence. It was neither novel nor implausible for Congress to conclude that political parties would react to §323(a) by directing soft-money contributions to the state committees, and that federal candidates would be just as indebted to these contributors as they had been to those who had formerly contributed to the national parties. . . . Preventing corrupting activity from shifting wholesale to state committees and thereby eviscerating FECA clearly qualifies as an important governmental interest.''

Id. at 165 (internal citations and quotation marks omitted). Section 323(b) is premised on the simple ''judgment that if a large donation is capable of putting a federal candidate in the debt of the contributor, it poses a threat or corruption or the appearance of corruption.'' Id. at 167. McConnell identified, moreover, precisely which contributions ''pose the greatest risk of this kind of corruption: *those contributions . . . that can be used to benefit federal candidates directly*.'' Id. (emphasis added).

Contributions to 527 IECs pose exactly this same ''greatest risk'' of corruption. Since these organizations must necessarily have the ''major purpose'' of nominating or electing candidates for federal office, Buckley v. Valeo, 424 U.S. at 79, contributions to them, even more than those covered by §323(b), will likely be used ''to benefit federal candidates directly.'' It does not matter how the political committee actually uses them. Contributions used for direct candidate contributions, coordinated expenditures, and independent expenditures all represent ''contributions . . . that can be used to benefit federal candidates directly.''

This is not to say, of course, that all funds ''used to benefit federal candidates directly'' necessarily pose this risk. As McConnell makes clear, ''Congress could not regulate financial contributions to political talk show hosts or newspaper editors *on the sole basis* that their activities conferred a *benefit* on the candidate.'' 540 U.S. at 156–57 n. 51 (first emphasis added). Something more is needed. In the case of political parties, the added risk comes from their ''close relationship . . . [to] federal officeholders and candidates.'' Id. Parties, the Court thought, were ''entities uniquely positioned to serve as conduits for corruption.'' Id.

527 IECs pose two special dangers long recognized by the Court that make them more like parties than like ''political talk show hosts or newspaper editors.'' First, just as in the case of §323(b), it is safe to ''ma[k]e a prediction . . . [that] soft-money donors w[ill] react to §323(a) [and §323(b)] by scrambling to find another way to purchase influence.'' Id. at 165. If the law does not cover 527 IECs, they will become the primary means for donors to circumvent FECA's new soft money provisions. Donors seeking to influence federal officeholders—donors who previously would have contributed large amounts of soft money to party committees for use in independent campaign advertising and other federal election activities—will contribute instead to independent expenditure committees for exactly the same uses. Such circumvention, all members of the Court agree, ''is a valid theory of corruption.'' Colorado II, 533 U.S. at 456.

It is, moreover, an extremely powerful theory of corruption. In McConnell, the Court employed it to uphold §323(f), which bars state and local candidates and officeholders from spending soft money to fund communications promoting, supporting, attacking, or opposing a clearly identified candidate for federal office, see 2 U.S.C. 441i(f) (Supp. 2003). In particular, the Court invoked the theory to dispel the argument that soft-money contributions to state and local candidates for such communications could not corrupt or appear to corrupt federal candidates. At first glance, this argument appears a strong one. Without evidence that contributors to state and local candidates were gaining influence and access to federal candidates and officeholders—of which there was none—how could such contributions corrupt? The Court saw an easy answer, however, in ''[t]he proliferation of sham issue ads.'' 540 U.S. at 185. As the Court described things:

''The . . . argument[s] that soft-money contributions to state and local candidates for [the covered] communications do not corrupt or appear to corrupt federal candidate[s] ignores both the record in this litigation and Congress' strong interest in preventing circumvention of otherwise valid contribution limits. The proliferation of sham issue ads has driven the soft-money explosion. Parties have sought out every possible way to fund and produce these ads with soft money: They have labored to bring them under the FEC's allocation regime; they have raised and transferred soft money from national to state party committees to take advantage of favorable allocation ratios; and they have transferred and solicited funds to tax-exempt organizations for production of such ads. We will not upset Congress' eminently reasonable prediction that, with these other avenues no longer available, state and local candidates and officeholders will become the next conduits for the soft-money funding of sham issue advertising. We therefore uphold §323(f) against plaintiffs' First Amendment challenge.''

Id. (internal quotation marks omitted). In other words, the record developed in McConnell showed that sham issue ads had become such a powerful tool of corruption that contributions for this purpose to any entity were necessarily corruptive—even without formal evidence that the contributor expected influence over or access to federal officeholders in return for the contributions. Nothing in the Court's reasoning mentioned, let alone rested on, any special connection between state and local candidates and their federal counterparts. Indeed, the contribution's corruptive potential stemmed entirely from its purpose: to fund sham issue ads that would benefit federal candidates. This is, of course, one of the primary purposes for which 527 IECs put their contributions to work.

The circumvention rationale applies with special force to independent expenditure committees that accept money from the general treasuries of corporations and unions. Independent expenditures from these sources have such great corruptive potential that the First Amendment allows them to be banned completely. Austin v. Michigan State Chamber of Commerce, 494 U.S. 652 (1990); but see FEC v. Massachusetts Citizens For Life, Inc., 479 U.S. 238 (1986) (defining narrow category of ideological corporation not constitutionally subject to expenditure ban).

Thus, corporate and union contributions to 527 IECs would represent direct circumvention of the corporate and union expenditure bans and so could clearly be banned in turn. The ''independence'' of an independent expenditure committee has no power to launder away the contribution's original source.

Second, 527 IECs share with parties—and not with talk show hosts and editors—a central characteristic that increases the corruptive potential of contributions made to them. As the Supreme Court has explained, political ''parties' capacity to concentrate power to elect is the very capacity that apparently opens them to exploitation as channels for circumventing . . . spending limits binding on other political players. And some of these players could marshal the same power and sophistication for the same electoral objectives as political parties themselves.'' Colorado II, 533 U.S. at 455. 527 IECs, like parties and unlike talk show hosts and wealthy individuals, have this same ''capacity to concentrate power to elect.'' As the Court recognized in Colorado II, by pooling individual resources and monitoring, rewarding, and punishing more effectively than can any individual the behavior of federal candidates and officeholders, 527 IECs can ''marshal the same power and sophistication for the same electoral objectives as the political parties themselves.'' This ability heightens the risk of corruption inherent in their power to serve as conduits.

To ignore the relevance of this ''capacity to concentrate power to elect'' would take exactly the ''crabbed view of corruption'' that McConnell rejected. It held instead that factors like a contribution's ''size, the recipient's relationship to the candidate or officeholder [it would support], [the contribution's] potential impact on a candidate's election, its value to the candidate, [and the donor's] unabashed and explicit intent to purchase influence,'' 540 U.S. at 152, are all relevant to determining a contribution's corruptive potential. Indeed, according to these McConnell factors, contributions to 527 IECs would easily qualify as corruptive. Some contributions are so large that they would certainly be remembered vividly by candidates and cast doubt in the public's eye that the contributor enjoyed no special influence over or access to them. The sham issue ads and other activities that these contributions generate, moreover, can have a great impact on a candidate's election—witness the Swift Boat ads in the last presidential campaign—and thus are of inestimable value to candidates. Nothing suggests, in fact, that 527 IEC spending is much less effective than spending by the candidates and parties themselves. It is simply naíve to believe that 527 IEC spending cannot create influence over and access to federal candidates. As George Soros admitted in talking to a reporter, this is the point: ''I've been trying to exert some influence over our policies and I hope I'll get a better hearing under Kerry.'' BCRA and the 527 Groups at 8.

McConnell supports the constitutionality of applying reasonable amount, source, and disclosure requirements to 527 IECs in another important way. It strongly reaffirms the basic principles the Supreme Court laid down in Buckley v. Valeo, 424 U.S. 1 (1976) and later cases, which permit appropriate regulation to prevent corruption and the appearance of corruption. In these cases, the Supreme Court has consistently held that ''contribution limits, unlike limits on expenditures, entail only a marginal restriction upon the contributor's ability to engage in free communication. . . . Because the communicative value of large contributions inheres mainly in their ability to facilitate the speech of their recipients, we have said that contribution limits impose serious burdens on free speech only if they are so low as to prevent candidates and political committees from amassing the resources necessary for effective advocacy.''

McConnell, 540 U.S. at 134–35 (internal quotation marks and citations omitted). And, although the Court has found that ''contribution limits may bear more heavily on . . . associational right[s]'' than on free speech rights, id. at 135, here too it has found their impact limited. Since ''[t]he overall effect of dollar limits on contributions is merely to require candidates and political committees to raise funds from a greater number of persons. . . . [A] contribution limit involving even significant interference with associational rights is nevertheless valid if it satisfies the lesser demand of being closely drawn to match a sufficiently important interest.''

Id. at 136 (internal quotation marks and citations omitted).

Subjecting 527 IECs to the reasonable contribution limit that applies to other political committees satisfies both these tests. First, it does not in any way affect 527 IECs' ability to make independent expenditures. They can spend all their available funds making such expenditures and can make them however they like. All such regulation does ''is simply limit the source and individual amount of donations.'' [Id. at 139. That this requires 527 IECs to seek contributions from a wider range of people causes no constitutional difficulty. See id. at 140 Second, such contribution limits in no way ''preven[t] . . . committees from amassing the resources necessary for effective advocacy.'' [Id. at 135. Again, all they do is change the committees' fund-raising strategy so that they aim for a broader group. Third, bringing 527 IECs under reasonable regulation would ''satisfy[y] the lesser demand of being closely drawn to match a sufficiently important interest.'' [Id. at 136 (internal quotation marks omitted). It would both prevent donors from circumventing §323 (a) and (b)'s ban on soft money contributions to political party committees—money which the parties used, in part, to fund the same activities 527 IECs would engage in—and avoid making federal officeholders subject to improper influence by those who contributed the money that 527 IECs used to aid the officeholders' elections. Both of these governmental interests, the Supreme Court has held, are sufficiently important to justify reasonable amount, source, and disclosure requirements, id. at 144–45, which is what S. 271 would place on 527 IECs.

DANIEL R. ORTIZ,
John Allan Love Professor of Law.

Mr. MCCAIN. As the memo points out, the Supreme Court in the McConnell case spoke directly to this issue and said that such limits are constitutional. The Court specifically noted that in an earlier case, California Medical Association v. FEC, it had upheld the $5,000 limit on contributions to political committees even as to a committee's spending for ''noncoordinated expenditures.'' The constitutional rationale in the California Medical Association v. FEC, as in the case of the soft money ban upheld by the Supreme Court in McConnell, is equally applicable to S. 2511. It is designed to prevent the evasion and circumvention of Federal contribution limits and prohibitions.

It is unfortunate we even need to be talking about this situation today. This legislation would not be necessary if it were not for the abject failure of the FEC to enforce existing law. As I noted earlier, some 527s raised and spent soft money to run ads attacking both President Bush and Senator KERRY. The use of soft money to finance these activities is clearly illegal under current statute, and the fact that they were allowed to continue unchecked is unconscionable.

The blame for this lack of enforcement does not lie with the Congress, nor with the administration. The blame for this continuing illegal activity lies squarely with the FEC. This agency has a duty to issue regulations to properly implement and enforce the Nation's campaign finance laws; and the FEC has failed, and it has failed miserably, to carry out that responsibility.

Let's consider two recent court rulings. First, in its decision upholding the constitutionality of BCRA in McConnell v. FEC, the U.S. Supreme Court stated that the FEC had ''subverted''—''subverted''—the law, issued regulations that ''permitted more than Congress had ever intended,'' and ''invited widespread circumvention''—those are not my words; those are the words of the U.S. Supreme Court in a majority decision—of FECA's limits on contributions.

Additionally, when Judge Kollar-Kotelly threw out 15 of the FEC's regulations implementing BCRA, among the reasons for her actions were that one provision ''severely undermines FECA'' and would ''foster corruption,'' another ''runs completely afoul'' of current law, another would ''render the statute largely meaningless,'' and, finally, that another had ''no rational basis.''

No wonder a Los Angeles Times editorial stated that:

[H]er decision would make a fitting obituary for an agency that deserves to die.

We cannot allow the destructive FEC to continue to undermine the Nation's campaign finance laws.

An article published just yesterday in the Hill points out that the FEC ''is being accused of attempting to intimidate soft-money donors to 527s by targeting the donors for questioning.''

The article also makes note of ''the FEC decision last month not to implement new regulations for 527s this election cycle. That was widely interpreted as a green light for 527s to act without restriction.'' What is going on here? The job of the FEC is to write regulations to properly implement campaign finance laws—not to bully and intimidate those who choose to donate to groups the FEC refuses to regulate.

Madam President, I ask unanimous consent that the article form the Hill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Hill, June 28, 2006]

INTIMIDATION SEEN AS COMMISSION EYES 527S' SOLICITATIONS

(By Alexander Bolton)

The Federal Election Commission (FEC) is being accused of attempting to intimidate

soft-money donors to 527s by targeting the donors for questioning.

The agency, which is tasked with policing national and congressional political campaigns, is targeting some of the wealthiest Republican and Democratic donors.

Typically such people have escaped tough scrutiny unless suspected of deliberately evading contribution limits through the use of straw donors or other tactics. But recently the FEC appears to have aimed at donors even though it is the 527s that are suspected of evading campaign-finance law.

One prominent GOP strategist has charged that the new tactic is intended to scare big donors away from giving to 527s, which Congress and the White House have struggled to curb.

This is happening despite the FEC decision last month not to implement new regulations for 527s this election cycle. That was widely interpreted as a green light for 527s to act without restriction, as groups such as America Coming Together and Swift Boat Veterans for Truth did during the 2004 election. This was expected to mean such groups would spend even more money this year and in 2008.

But the FEC has not left the same rules in place that allowed 527s to spend $400 million in the 2004 cycle. Late that year, it subtly modified its rules, which would apparently bolster investigations of 527s in response to a series of complaints filed against the groups in 2004.

The new regulation, which took effect in January 2005, stated that 527s would be subject to regulation if, when seeking money, they ''indicated'' to donors that the money would be spent to support or oppose a federal candidate.

Election-agency commissioners such as Ellen Weintraub and Hans A. von Spakovsky declined to discuss the investigations. But strategists close to the 527s say donors are being targeted.

''I know for a fact that the FEC has subpoenaed donors who may have contributed to 527s in past election cycles and believe that technique is more rooted in preventing future donation to other 527s than anything else,'' said Chris LaCivita, a former senior adviser to Swift Boat Veterans for Truth and former head of Progress for America, both right-wing groups.

Another strategist connected with a prominent conservative 527 group, the Club for Growth, confirmed that the FEC is targeting donors.

''I've heard that lots of other groups have gotten subpoenas and requests for depositions of donors,'' said David Keating, the executive director of the Club for Growth, which is tied up in litigation with the FEC. Keating said he was not talking about donors to his group.

''If you look in the 2004 cycle, complaints were filed against virtually every group out there,'' Keating said. ''None of these matters under review have been dismissed.''

In 2004, a coalition of pro-campaign-finance-regulation groups including Democracy 21, the Center for Responsive Politics and the Campaign Legal Center filed at least five complaints against the major 527s: America Coming Together, the Media Fund, the Leadership Forum, Progress for America Voter Fund, Swift Boat Veterans for Truth and Texans for Truth.

Fred Wertheimer, president of Democracy 21, said that he believes all of his group's complaints are pending but that he had no further knowledge of the probes.

Because the complaints, which are 2 years old, have not been dismissed, it is assumed that the FEC has given its lawyers the go-ahead to investigate them.

One Democratic lawyer said the FEC general counsel's office is asking donors to recall the specifics of their conversations and other interactions with 527s to determine whether those groups indicated that donations would be used to support or oppose federal candidates such as President Bush and Sen. John Kerry (Mass.), the Democrats' presidential nominee.

''They're asking a lot of questions of donors about what they were told when they were asked to contribute,'' the lawyer said. ''Who knows what the six-member commission will do with whatever is presented them? There's little doubt that the general counsel's office feels responsibility to show evidence of a violation and this is the route to get there.''

Once the general counsel presents his case to the commission, its members must vote on whether there is probable cause to believe the law was broken. It is not known if the commissioners specifically approved subjecting donors to subpoenas and depositions.

''Their attorneys have been let loose to look into whether . . . the entities violated the law,'' the Democratic lawyer said. ''They're out there trying to gather the evidence. You don't have the FEC as a six-person office approving these inquiries.''

Former FEC Chairman Scott Thomas, who retired last year, declined to comment on an ongoing investigation but said scrutinizing donors would fit the legal approach that the FEC has adopted in regulating 527s. Citing the newly enacted Section 100.57, Thomas said commissioners agreed in 2004 that 527s could be policed most effectively case by case by looking at how they solicited donors.

Thomas said solicitation is a key element in the FEC's litigation against the Club for Growth. He said FEC investigators are likely to look at ''whether there was some indication given to donors in the solicitation process that the funds would be used to support or oppose federal candidates. The focus is what was said when the money was coming in.''

Thomas said past enforcement actions focused on what groups communicated to voters to determine whether they should have political-committee status, a designation that would subject them to contribution limits. Thomas said that approach created gridlock.

Thomas said the regulation change in January 2005 could be used to prosecute groups for activity in 2004. He said it would not apply retroactively in the technical sense but could be held up as a point of consensus among the FEC commissioners about how the laws on the books before 2004 should be interpreted.

''It's going to be arguing that the same analytical concept can be applied for figuring out what happened in '04 cycle,'' Thomas said in response to claims that the general counsel is focusing on conversations with donors. ''That's probably why the FEC was digging for this information, because four commissioners agreed that concept was the best way to analyze these political-committee cases.''

Mr. MCCAIN. The track record of the FEC and its continued stonewalling proves that the Commission is incapable of upholding its responsibilities. The time has come to put an end to its destructive tactics. The FEC has had ample and well-documented opportunities to address the issue of the 527s' illegal activities, and each time it has taken a pass, choosing instead to delay, postpone, and refuse to act.

BCRA has demonstrated that, on a bipartisan basis, we care about making sure that political power in this country does not lie solely in the wealth of big corporations, labor unions, and the wealthiest of the wealthy. We need to uphold and build upon past reforms and not endorse the pursuit of ways to get around or unravel them.

I again point out with this chart that the predictions, when we passed BCRA, were that it would be the end of national parties; that it would prohibit people from any way to be able to contribute to political campaigns, and the parties would suffer mightily. Well, here is the amount of money. Here is the amount of new donors that both parties got. I have to say, in fairness, the Internet had a lot to do with the encouragement of, and ability of, millions of new donors to engage in contributions.

But let me also point out, for those who were worried about the destruction of the political parties and some kind of diminution of their capabilities, the Democratic Party raised $580 million as opposed to $212 million. This is hard money alone, with the elimination of soft money. And Republicans raised $632 million. So millions of new donors took part in the political process. The parties were strengthened.

No longer is it legal for a powerful Member of Congress to call up a labor union leader, a trial lawyer, or a corporation head and say: I need a soft money donation in six figures. And, by the way, your legislation is up before my committee. That is no longer legal and has stopped.

Do we have problems still with too much money washing around Washington in the form of campaign contributions? Yes. And do we have additional measures that need to be taken? Yes. But the first thing that needs to be done is to make the 527s fall in line with the same restrictions placed on any other organization that engages in activities to attempt to influence the outcome of an election.

I want to emphasize, we are not trying to ban them. We are trying to make them subject to campaign finance contribution limits, which are clearly, clearly called for in the 1974 law.

Again, the performance of the Federal Election Commission is really a great national disgrace. And how they can continue to fail to write regulation to enforce existing law that the Congress has passed since 2002 and enforce laws that were passed in 1974 is absolutely beyond comprehension.

Mr. President, I note the presence of my friend, the Senator from Nevada, on the floor of the Senate at this time, so I will proceed with the unanimous consent request at this time.

Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Democratic leader, the Committee on Rules and Administration be discharged from further consideration of S. 2511, and the Senate proceed to its immediate consideration; I further ask that there be 4 hours of debate equally divided with no amendments in order;

provided further that following the use or yielding back of time, the bill be read a third time and the Senate proceed to a vote on passage, with no intervening action or debate.

The PRESIDING OFFICER (Mr. ENSIGN). Is there objection?

Mr. REID. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, first of all, I want the RECORD spread with the fact of the work Senator MCCAIN did with my friend, and his friend, Senator FEINGOLD, in the now famous legislation, McCain-Feingold.

In my 1998 race that I was involved in with the Presiding Officer of the Senate, I spent $10 million, in the small State of Nevada. My friend, the junior Senator from Nevada, spent the same amount of money. It was equal spending. But the vast majority of that money we spent in Nevada in that hotly contested race was corporate money.

McCain-Feingold solved that problem. When I ran in 2004, as I have told other people, it was as if I had just climbed out of a shower and was clean and fresh. I did not have to accept corporate money, which I believe did not corrupt me, but it was corrupting when you could get these large sums of money, legally, and run them through the State parties and then run these negative ads that we all did around the country.

So I think McCain-Feingold personally was a tremendous blow for freedom and civility in this country. And I will always be grateful to Senators MCCAIN and FEINGOLD for that work.

I have listened to—I was not able to listen to all of my friend's remarks, but most of them I listened to in my office and here. And I say that I believe we have to have a full review of all campaign finance laws. Mr. President, 527s is only part of what I think we need to take a look at. There are foundations that need to be looked at. Some of the things going on with political action committees we need to take a look at. There are a lot of things we need to take a look at. I think at the appropriate time that should be done.

Now, I say to my friend who makes this unanimous-consent request, we have a bill pending in the Rules Committee requiring 527s to register as political action committees.

Now, we have a letter dated June 9 to Senator FRIST, the majority leader, from one, two, three, four, five, six, seven Republican Senators who say, among other things: We oppose taking any action on this bill, S. 2511. And they state specifically that they do not like it. So I am not sure it could be cleared on your side. It cannot be cleared on our side.

I would, on that basis, object and look forward to working with my friend to see if we can do a better job in looking at all the campaign finance problems that we have all at one time, not just 527s. So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, I ask unanimous consent that the letter to the majority leader dated June 9 of this year be printed in the RECORD.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. SENATE,
Washington, DC, June 9, 2006.

Hon. BILL FRIST,
Majority Leader, The Capitol,
Washington, DC.

DEAR MAJORITY LEADER FRIST. As Republicans, we strongly believe in freedom, including freedom of expression and association. We campaigned for office on the principles of a limited and constitutional government. As elected officials we took an oath of office to ''support this Constitution.''

The First Amendment's dictates are a model of clarity: ''Congress shall make no law . . . abridging the freedom of speech.'' Yet the House of Representatives approved a bill (H.R. 513) that proposes new restrictions on speech about politicians and policies to be enforced under the threat of criminal penalties. The House then added the provisions of H.R. 513 to the Senate's lobbying reform bill.

One of the four pillars of a free and just society is freedom of speech. As George Washington once said, ''If the freedom of speech is taken away then dumb and silent we may be led, like sheep to the slaughter.''

The targets of the bill's speech restrictions are nonprofit advocacy groups organized under section 527 of the tax laws. The groups pose no threat of corruption as they are required to disclose all donors, barred from urging voters to support or oppose a candidate, and prohibited from coordinating with political parties or elected officials. Rather than restrict others, we should expand people's freedom of association and speech to political organizations and committees.

While many rightly criticized the McCain-Feingold bill for banning TV and radio ads within 60 days of an election, what justification is there to prohibiting any communication costing over $1,000 that mentions a congressman's name in any medium, 365 days a year, if done through one of these independent citizens' groups?

Some say this bill is needed to stop the wealthy from funding propaganda, but the bill appropriately places no limits on the wealthy to fund speech on their own. Instead, it foolishly restricts the ability of hundreds of thousands of citizens to join together to speak out about the nation's future.

Republicans do not need, and should not attempt, to muzzle their opponents. The increase in free speech over the last two decades made possible by the growth of talk radio, cable TV and the Internet has benefited our Party, which allowed us to promote individual freedom and opportunity that has led to unprecedented prosperity for our nation.

We strongly oppose adding the anti-free speech provisions of H.R. 513 to the lobbying reform bill, or any other bill.

If such provisions are added to legislation scheduled for a Senate vote, we would give serious consideration to supporting extended debate on the bill. It is important that the American public have the opportunity to learn that their freedoms are at stake and have the sufficient time to express their opinions prior to a vote of the Senate.

Sincerely,

GEORGE ALLEN,
JIM DEMINT,
NORM COLEMAN,
DAVID VITTER,
MICHAEL B. ENZI,
JOHN E. SUNUNU,
SAM BROWNBACK.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I, obviously, am not surprised at the objection of my friend from Nevada. We need to address this issue. As I mentioned, I do not think we would have to if it were not for the Federal Election Commission's failure to carry out their responsibilities.

I have observed the role of money in politics for a long time. And unless these 527s are brought under control, we are going to see ever-enlarging activities and more and more money being spent through this loophole that has been carved out, unfortunately, and allowed, as I mentioned, two individuals to contribute as much as $22 million each in the 2004 campaign.

I worry very much about one individual donor contributing millions of dollars that would come into a House or a Senate race in the last couple or 3 weeks of a campaign. Obviously, that would be a credible distortion of the process and undue influence. By the way, 99 out of 100 of these 527s come from outside the State or district in which the money is spent. So I hope we can move forward on this legislation. I think it is compelling that we do so

I hope that we can sit down with others and get this legislation debated. As to the unanimous consent request I propounded, I would be glad to have amendments to it, other debate, depending on the will of Senators. We need to take up this issue and bring it under the control for which it cries out. I regret we were not able to do so at this time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

WESTERN ENERGY CRISIS

Ms. CANTWELL. Mr. President, last night consumers in Washington State received welcome news; that is, that the Federal Energy Regulatory Commission decided, after 5 long years, that the ratepayers of Snohomish County, WA, do not have to pay Enron $120 million for power that it never delivered during the western energy crisis, for which it sought to charge exorbitant power rates.

The western energy crisis was certainly a tragic chapter, demonstrating corporate greed and the need to make sure we have regulatory fairness. This fight goes back to the spring of 2001. Since then, I have been working, along with my colleagues from the Pacific Northwest and other parts of the country, to make sure that ratepayers were treated fairly. There were many stops and starts in the process. There were times when our faith in the process began to erode.